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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/612,322

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John G. Kuccra

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12/14/2005

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EXAMINER

BUSHEY, CHARLES S

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,322

Applicant(s)

KUCERA, JOHN G.

Examiner

Scott Bushey

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11,21 and 22 is/are rejected.
- 7) ☒ Claim(s) 12-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10-24-05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species B, as depicted by Figures 11-13 of the application, in the reply filed on October 24, 2005 is acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-10, 21, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 7 does not make sense. It is suggested that "directed" be inserted before "downward" in line 7 of claim 1.

In claim 21, line 4, the phrase "being having" does not make sense. Also, in claim 21, line 8, "the top" lacks antecedent basis.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Huntington (Figs. 1 and 3).

Applicant should note that the notches in weir plates (27 and 28) form a plurality of fingers in each of the plates thereby distributing the liquid onto different portions of the evaporative pad.

6. Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Blatter (Figs. 1-4).

Applicant should note that the passages between the fingers of the distributor (28) direct liquid to different portions of the media.

7. Claim 11 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Harrison, Jr. (Figs. 1 and 2).

Applicant should note that the sets of fingers (65) on opposite sides of the distributor direct liquid streams to different locations on the top of the media pad.

8. Claims 1-3, 11, 21, and 22 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Permenter (Figs. 5-7; paragraphs [0030-0033, and 0036]).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Permenter.

Permenter (Figs. 5-7; paragraphs [0030-0033, and 0036]) as applied above substantially discloses applicant's invention as recited by instant claims 4 and 5, except for the specific disclosure that the water spray is directed at a non-vertical angle. Firstly, it is noted that any deviation of the water spray by Permenter from a precise vertical spray would allow for the reference to anticipate that as recited by instant claims 4 and 5. Accordingly, the only reason claims 4 and 5 have not been rejected by Permenter as anticipated thereby is due to the fact that the reference only illustrates a vertical spray. However, in view of the disclosure by Permenter, particularly, at paragraph [0014], it is not seen to be critical that the water spray exit the spray pipe in a precisely vertical direction, only that the resultant distribution from the bonnet structure not be unimpeded to the evaporative pad. Clearly one having ordinary skill in the art would recognize that a spray from the spray pipe at an angle of 1 degree from vertical would allow the reference apparatus to function as desired. Therefore, it would have been obvious for an artisan at the time of the invention, to modify the spray direction from the spray pipe to a non-vertical angle (such as 1 degree from vertical) that would maintain a distribution from the reference apparatus to the underlying pad that was impeded by the spray pipe and the bonnet, such that a more uniform distribution across the pad was maintained. Clearly, any non-vertical angle (such as 1 degree from vertical) would allow the apparatus to provide the capability as recited by claim 5 of the instant invention.

Allowable Subject Matter

11. Claims 6-10 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claims 12-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is 571 272-1153. The examiner can normally be reached on M-Th 6:30-5:00.

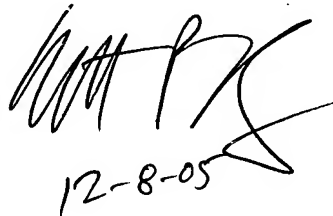
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott Bushey
Primary Examiner
Art Unit 1724

csb
12-8-05



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